

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH JOHN LEONARD,

Petitioner,

Civil No: 07-CV-10836-DT
Honorable Patrick J. Duggan

v.

HUGH WOLFENBARGER,

Respondent.

**OPINION & ORDER DENYING PETITIONER'S
MOTION FOR CERTIFICATE OF APPEALABILITY**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan on April 22, 2008.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT

On February 23, 2007, Petitioner filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his application, Petitioner challenges his conviction in the Macomb County Circuit Court of assault with intent to murder, in violation of MICH. COMP. LAWS ANN. § 750.83. Petitioner subsequently filed motions for discovery, an evidentiary hearing, appointment of counsel, and additional time to file objections. On March 25, 2008, this Court issued an opinion and order denying Petitioner's motions. Petitioner filed a notice of appeal on April 7, 2008, along with a motion for certificate of appealability.

Under 28 U.S.C. § 2253, an appeal of a *final order* in a habeas corpus proceeding

may not be taken unless the petitioner first obtains a certificate of appealability. This Court has not issued a final order with respect to Petitioner's habeas petition. Any appeal of the Court's March 25, 2008 opinion and order therefore would be interlocutory.

Accordingly,

IT IS ORDERED, that Petitioner's Motion for Certificate of Appealability is
DENIED.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Joseph J. Leonard, #211548
Muskegon Correctional Facility
2400 S. Sheridan Drive
Muskegon, MI 49442

Heather S. Meingast, Esq.